

JOURNAL OF THE SECOND ANNUAL
SESSION OF THE GENERAL COUNCIL OF
THE INDIAN TERRITORY



2ND SESSION

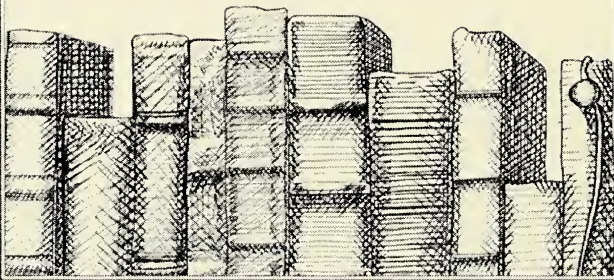


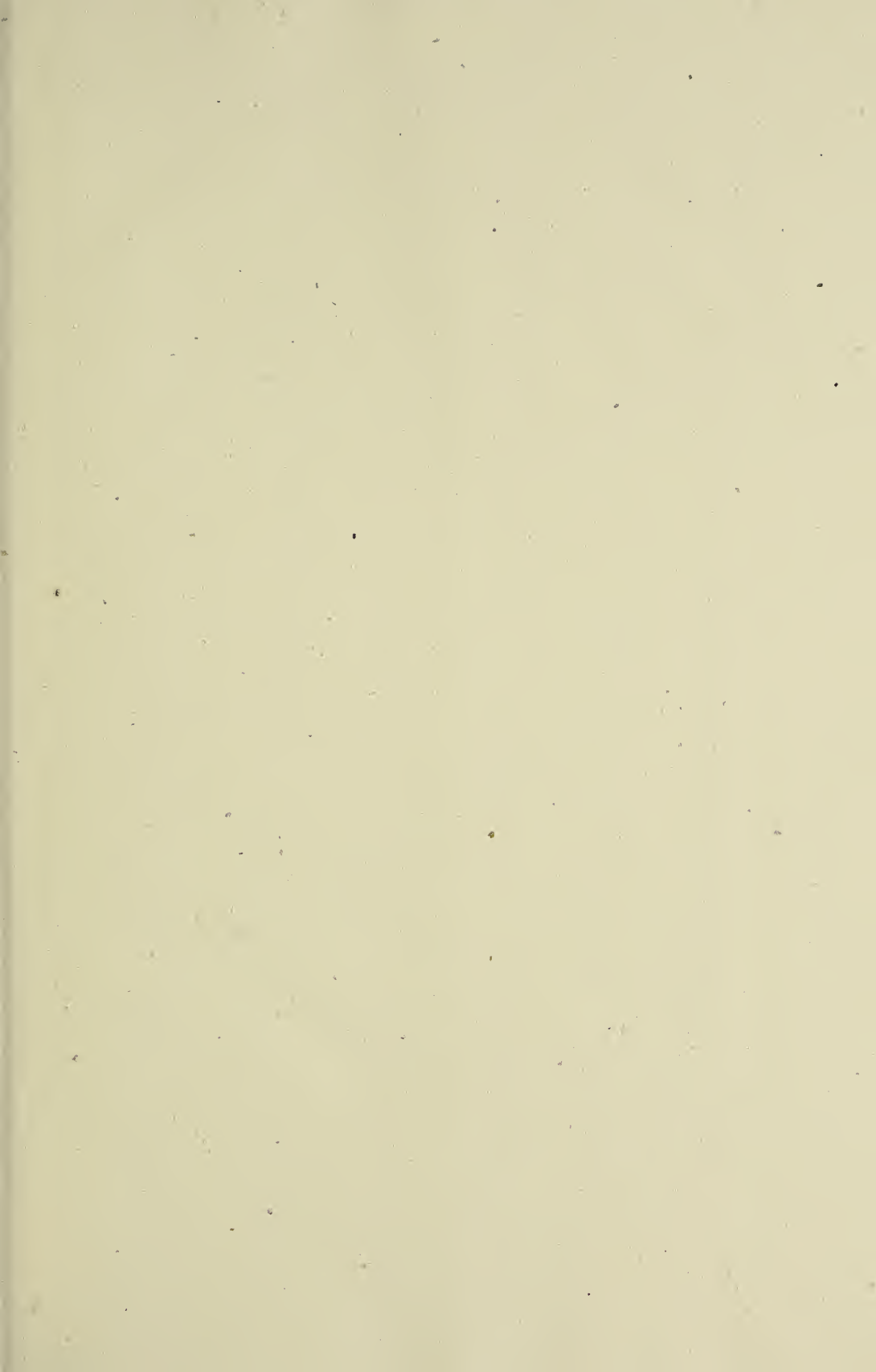
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JOURNAL
OF THE
SECOND ANNUAL SESSION
OF THE
GENERAL COUNCIL
OF THE
Indian Territory,

COMPOSED OF
DELEGATES DULY ELECTED FROM THE INDIAN TRIBES LEGALLY RESIDENT
THEREIN,

ASSEMBLED IN COUNCIL,
AT OKMULGEE, INDIAN TERRITORY,
FROM THE 5TH TO THE 14TH (INCLUSIVE) OF JUNE, 1871.

Under the provisions of the Twelfth Article of the Treaty made and concluded at the City
of Washington in the year 1866, between the United States and the Cherokee Nation,
and similar Treaties between the United States and the Choctaw and
Chickasaw, Muscogee and Seminole Tribes of Indians,
of same date.

LAWRENCE, KANSAS:
JOURNAL BOOK AND JOB PRINTING HOUSE.
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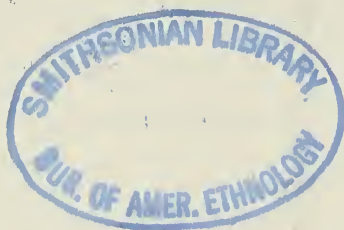
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2nd session
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LIST OF DELEGATES.

CHEROKEES.

Wm. P. Ross,
Riley Keys,
Allen Ross,
Eli Smith,
O. H. P. Brewer,
S. M. Taylor,
J. A. Scales,
Stealer,
Stand Watie,
G. W. Johnson,
Joseph Thompson,
J. W. Adair.

CREEKS.

P. Porter,
J. R. Moore,
J. M. Perryman,
S. W. Perryman,
Ok-tar-har-sars-Harjo.
Cot-cho-chee,
Timothy Barnard,
J. M. C. Smith,
Yar-kin-har-micco,
Martup To-holar,
D. N. McIntosh.

CHOCTAWS,

John McKinney,
Wm. Frye,
Ma-ha- tubbee,
Rufus Folsom,

John Garvin,
John Dawson,
Sampson Folsom,
Willis Ho-yubbee,
J. P. Folsom,
Alfred Wright,
Coleman Cole.

CHICKASAWS.

C. P. H. Percy,
Hopiah-tubbee,
John D. Molett,
R. J. M. Foreman.

OTTAWAS.

Francis King.

EASTERN SHAWNEES.

Wm. McDaniel.

QUAPAWS.

Sam'l Valier.

SENECAS.

George Spicer.

WYANDOTTES.

John W. Grey-eyes.

CONFED'D PEORIAS, &c.

Edward Black.

SACS AND FOXES.

Keokuk,
Mut-ta-tah.

ABSENTEE SHAWNEES.

Sparnee,
Joseph Ellis,

GREAT AND LITTLE OSAGES.

Hard Rope,
Chetopa,
Pah-e-no-po-shay,
Sah-ba-kea.

SEMINOLES.

John F. Brown,
Fus-hut-che Harjo,
E. J. Brown.

ABSENTEE DELAWARES.

Black Beaver.

WICHITAS.

Is-sad-a-wa.

CADDOES.

War-loo-pe.

TOWACCANIES.

Dave.

KEECHIES.

Ne-wa-ca-sitz.

IONIES.

Ker-no-os-tic.

ARAPAHOS.

Big-mouth,
Spotted Wolf,
Yellow Horse.

CHEYENNES.

Little Black Kettle.

INTERPRETERS.

James Bigheart,	for the	OSAGES.
Isaac T. Doxtetter,	" "	SENECAS.
David Duchine,	" "	Eastern SHAWNEES.
Charles Keokuk,	" "	SACS AND FOXES.
Robert Deer,	" "	Absentee SHAWNEES.
D. M. Hodge,	" "	CREEKS.
Caboon,	" "	WICHITAS.
Philip Block, for the	ARAPAHOS AND	CHEYENNES.
Stand Watie, " "		CHEROKEES.
Colman Carter, " "	CHOCTAWS AND	CHICKASAWS.

JOURNAL OF GENERAL COUNCIL.

OKMULGEE, C. N., IND. TER., }
Monday, June 5, 1871. }

The General Council of the Indian Territory convened in its second annual session. Superintendent Enoch Hoag, presiding.

In the absence of the Secretary, F. B. Severs was elected Secretary *pro tem*.

Upon calling the roll, there was not a quorum present.

In response to an invitation of the President, Generals W. T. Sherman and Marcy, of the U. S. Army, addressed the Council.

The following delegates presented credentials, and were admitted to seats in the Council:

John Garvin, Thomas Colbert, John Dawson and Rufus Folsom, from the Choctaws. J. D. Molett and R. J. M. Foreman, of the Chickasaws. Yar-kin-har-micco, of the Creeks. Joseph Pah-e-no-po-shay, Hard Rope and Chetopa, of the Osages, and John W. Grey-eyes, of the Wyandottes.

Council adjourned till Tuesday, 9 A. M.

TUESDAY, June 6, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment.

The President extended liberty to any one who desired to ask the blessing and guidance of Divine Power, upon the work of the Council. The roll was called and a quorum was present.

Upon motion of J. P. Folsom, the Rules and Regulations of the former session, were adopted for the government of the present.

J. R. Moore, C. P. H. Percy, J. P. Folsom, J. A. Scales, J. F. Brown, Keokuk, Joseph Pah-e-no-pa-shay and Ok-tar-har-sars Harjo, were appointed a Committee on Credentials.

Credentials were presented and appropriately referred, for Wm. McDaniel, in place of Lazarus Flint of the Eastern Shawnees. For Sam'l Valier, in place of Robert Lumbard of the Quapaws, and for Sah-ba-kea, in place of Wah-tah-in-ka of the Osages.

Adjourned to 2 P. M.

2 O'CLOCK P. M.

Council met pursuant to adjournment.

The President announced several committees, as follows:

On Relations with the United States,—Wm. P. Ross, J. P. Folsom, J. F. Brown, S. W. Perryman, C. P. H. Percy, J. W. Grey-eyes and Chetopa.

On International Relations,—Sampson Folsom, P. Porter, Stand Watie, George Spicer, Joseph Pah-e-no-po-shay and Ok-tar-har-sars Harjo.

On the Judiciary,—C. Leflore, J. A. Scales, G. W. Stidham, Samuel Valier, S. M. Taylor, E. J. Brown and George W. Johnson.

On Education and Agriculture,—J. M. Perryman, Joseph Thompson, John McKinney, E. J. Brown, Edward Black, Joseph Ellis and Black Beaver.

On Enrolled Bills,—Allen Ross, P. Porter, Wm. P. Ross, Sampson Folsom and J. D. Molett.

On Rules and Regulations,—J. M. C. Smith, O. H. P. Brewer, F. King, C. P. H. Percy and J. A. Scales.

On Finance,—P. Porter, J. W. Adair, G. W. Johnson and R. J. M. Foreman.

The following Interpreters were appointed:

For the Cherokees,—Stand Watie. *For Creeks*,—D. M. Hodge. *For Choctaws and Chickasaws*,—Colman Carter. *For Osages*,—Big-heart. *For Senecas*,—Isaac T. Duxtetter. *For Absentee Shawnees*,—Robert Deer. *For Wichitas*,—Caboon. *For Arapahoes and Cheyennes*,—Philip Block. *For Sacs and Foxes*,—Charles Keokuk. *For Eastern Shawnees*,—David Duchine.

The Committee on Credentials reported through its Chairman adversely to the claim of Thomas Colbert, contestant for the seat of John Dawson, and in favor of the latter. Also in favor of Willis Ho-yubbee as a substitute for A. R. Durant, who is absent. The Council adopted the report of the Committee.

The Secretary of the Council reports that he has received information of the adoption by the Creek Nation of the Constitution framed by the Council last December. He has not been informed of its adoption by any other nation or tribe. The President stated that there were sufficient reasons for the delay of the other tribes, that there was no cause for discouragement and that united progressive action, looking to the good of all the Indian Nations, is now the course most expedient for the Council to pursue.

Adjourned to Wednesday the 7th, 9 A. M.

WEDNESDAY, June 7, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment. Roll called and minutes approved.

On motion of Wm. P. Ross, the Council unanimously appointed J. M. Perryman as Chaplain.

The Committee on Credentials reported in favor of a request to the President of the Council, to pay mileage and per diem of Thos. Colbert, upon whose claim to a seat said Committee reported adversely. The

Council adopted the report and requested the President to pay per diem and mileage to said Thos. Colbert, to the present date.

Wm. P. Ross made an interesting verbal report of an Indian Council which was held upon the Washita River, on the 24th of April last, near the Wichita Agency, by the Chiefs and head men of some of the wild tribes of the plains, and a full representation from the Cherokee, Creek, Seminole and Chickasaw Nations. There was an earnest endeavor on the part of the delegations from the last named tribes, to impress upon their brethren of the plains the great importance of peace and friendship. All the ceremonies of the old Indian style of making peace were performed, and seemed to be witnessed with gratification by all who were present. Mr. Ross deemed it very important for the civilized nations of Indians to continue their efforts thus happily begun, to improve the condition of their brethren of the plains, for he considered the only hope these have of an escape from utter extermination, is in the adoption of the habits of civilized life.

President Hoag made remarks of a confirmatory character, and impressed upon the Council the necessity of persistent action, in order to secure to their constituents the blessings of a higher civilization, through the provisions of their confederation so harmoniously commenced.

Mr. J. P. Folsom introduced the following resolution, which, on motion of Mr. W. P. Ross, was adopted:

Resolved by the General Council, that the President appoint a committee of seven, who shall take into consideration the best course for securing as early as practicable, the establishment of the Government proposed in the Constitution, submitted by the General Council in December, 1870, to the nations represented in said Council for their adoption—said committee to report to this Council.

Adjourned to 2 P. M.

2 O'CLOCK P. M.

Council met pursuant to adjournment. The session was profitably occupied in an interchange of views and sentiments, between the delegates from the eastern nations and those from the Plains.

The Council adjourned till Thursday, 9 A. M.

THURSDAY, June 8, 1871, }
9 O'CLOCK A. M. }

Council met pursuant to adjournment. Quorum present. Journal of yesterday read and approved.

Upon motion, Chas. Keokuk was appointed interpreter of Sacs and Foxes.

The remainder of the morning, was consumed in an interesting and profitable interchange of views, by different delegates.

Adjourned to 2 P. M.

2 O'CLOCK P. M.

Met according to adjournment.

The following resolution, offered by J. P. Folsom, was read three several times and adopted.

Resolved, that the Committee on International Relations be instructed to take into consideration the expediency of adopting a permanent system for sending delegates from the several nations represented in this Council to the Indian Nations of the Plains, and to devise ways and means for defraying the expenses of such delegates, for purposes contemplated in the treaties of 1866,—said Committee to report to this Council at its present session.

Adjourned to Friday, 9 A. M.

FRIDAY, June 9, 1871, }
9 O'CLOCK A. M. }

Council met pursuant to adjournment. Prayer was offered by the Chaplain, and the Roll was called.

Journal of yesterday read and approved.

D. N. McIntosh of the Creek Nation presented credentials, which were accepted.

On motion of Sampson Folsom, the Council took a recess of two hours and a half, to receive according to Indian customs, the Chiefs and head men of the Wichita, Caddo, Keechi and Ioni tribes, who had just arrived.

Ok-tar-har-sars Harjo, Colman Cole and Stand Watie, were informally appointed to conduct the reception. After smoking the pipe of peace and other ceremonies, Ok-tar-har-sars Harjo made an impressive speech to the newly arrived delegates, urging them to adopt a course of life better calculated to promote the comfort and happiness of their people. His forefathers were such as they and others of the plains, but in the great change which he and his people were witnessing, they feel that they are reaping many benefits and blessings. He was not only speaking his own sentiments, but those of every Indian in the house.

Adjourned to 2 P. M.

2 O'CLOCK P. M.

Council met pursuant to adjournment.

The Committee of Seven, reported through their Chairman, J. P. Folsom, the following preamble, resolution and additional schedule, which were twice read and interpreted, and the third reading postponed until to-morrow.

Whereas, the General Council did, at its last annual session, frame a Constitution for the government of the Confederate Indians of the Indian Territory, and submit the same for their acceptance and ratification :

And Whereas, no action on said Constitution has been had by any of said Nations since the adjourn-

ment of the General Council, in consequence of the times of meeting of their National Councils not having arrived, (except the Muscogee Nation, which ratified it):

And Whereas in the opinion of this General Council, the said Constitution provides for a form of Government for the Confederated Indians of the Indian Territory, not inconsistent with their rights, privileges and obligations, arising under their treaty stipulations with the United States, but which amply protects their interests, meets their duties to the Government, and secures to them the great and inestimable right of self government:

And Whereas, The circumstances which surround them, growing out of the provisions of the treaties of 1866, apparently impose upon them the necessity of acceding to some form of general government for themselves.

Therefore, Be it Resolved by the General Council of the Indian Territory, that the action of the General Council in 1870, which framed and submitted a constitution to the several nations for their ratification, for the government of the nations represented in said Council, is hereby re-affirmed.

Be it further Resolved, That in anticipation of the ratification of said Constitution, and in order to secure its immediate operation after such ratification, the following additional schedule shall have the same binding force and effect as the one now attached to and forming a part of the Constitution, to wit:

That on the meeting of the General Council, at the call of the Secretary, as provided in said schedule, it shall be the duty of said Council when so convened, to provide a Provisional Government for said territory, and to elect a Governor and other officers thereof, whose duties shall be the same as prescribed by the Constitution aforesaid, and whose term of office shall expire, when the regular officers shall be elected and qualified under the said Constitution; and that the General Council shall, when convened as above directed, order an election for governor and other officers, to take place at the time prescribed by the Constitution. But if any delay should prevent such an order from

being issued before April next, in that case the General Council shall order such election so soon as it can be done after April, 1872.

And the Secretary shall send a duly authenticated copy of this supplementary schedule to the executive Authority of each nation represented in this Council, and ask them to submit it with the Constitution for adoption.

Provided, that this Constitution shall be obligatory only upon such nations as may hereafter duly approve and adopt the same.

Adjourned to Saturday the 10th, 9 A. M.

SATURDAY, June 10, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment. Prayer by the Chaplain.

War-loo-pe, of the Caddoes, Ne-wa-ca-sitz, of the Keechies, Is-sad-a-wa, of the Wichitas, Black Beaver, of the Absentee Delawares, Ker-no-os-tic, of the Ionies and Dave, of the Towaccanies, presented their credentials, which were referred to the proper Committee.

The third reading of the report of the Committee of Seven, being called for, G. W. Johnson offered the following amendment:

That the Secretary of the General Council be, and he is hereby authorized to convene the General Council at as early a day as practicable, after he shall have received notification of the adoption of the Constitution by a sufficient number of the nations represented in the General Council to carry into operation the Government as provided in the Constitution.

Upon motion of J. M. C. Smith, the further consideration of the whole matter was postponed until Monday.

J. F. Brown offered an amendment to the Constitution, providing for equal Senatorial representation of the Cherokees, Creeks, Choctaws, Chickasaws and Seminoles.

Adjourned to 2 P. M.

2 o'clock P. M.

Council met pursuant to adjournment.

The session was occupied in discussing the proposed amendment to the Constitution by various delegates.

On motion adjourned to 9 A. M., Monday the 12th.

MONDAY, June 12, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment. Prayer by the Chaplain.

The Committee on Credentials reported in favor of the delegates from the Wichitas, Keechies, Ionies, Absentee Delawares, Towaconies and Caddoes.

The credentials of Yellow Horse, Big Mouth and Spotted Wolf, were presented and referred to the appropriate Committee.

The Council then adjourned to 2 P. M., to afford opportunity for the reception, according to Indian custom, of the Chiefs and head men named in the preceding sentence, who came as delegates from the Arapahoes and Cheyennes.

2 o'clock P. M.

Council met pursuant to adjournment, and resumed the consideration of Brown's amendment to the Constitution. The yeas and nays being called for by G. W. Johnson, and sustained by a sufficient number, the vote was as follows: *Yeas*, John D. Molett, C. P. H. Percy, J. F. Brown, R. J. M. Foreman, E. J. Brown, Fus-hut-che Harjo and Is-sad-a-wa.—7. *Nays*, Wm. P. Ross, R. Keys, A. Ross, E. Smith, O. H. P. Brewer, S. M. Taylor, Stand Watie, Stealer, G. W. Johnson, Jos. Thompson, J. W. Adair, P. Porter, J. M. Perryman, S. W. Perryman, Ok-tar-har-sars Harjo, Cot-cho-chee, Timothy Barnard, Martup To-holar, J. P. Fol-

som, J. M. C. Smith, J. Scales, J. R. Moore, D. M. McIntosh, Jno. McKenney, Wm. Frye, Ma-ha-tubbee, Rufus Folsom, J. Garvin, J. Dawson, Sampson Folsom, A. Wright, C. Cole, J. W. Grey-eyes, Keokuk, Mut-ta-tah, Sparnee, Jos. Ellis, Black Beaver and War-loo-pe.—39. So the amendment was lost.

The Council then resumed the consideration of the report of the Committee of Seven, together with Mr. Johnson's amendment. The supplementary schedule as recommended by the Committee, and as amended by Mr. Johnson, was then adopted.

A resolution was offered by R. Keys and adopted, requesting the Committee on Relations with the United States to report, what expression (if any) of the sentiments of the General Council may be proper, in view of the recent decision of the Supreme Court of the United States, in the case of E. C. Boudinot and others, so far as the same may seem to involve the rights of the people of the Indian Territory.

Adjourned to 9 A. M., Tuesday the 13th.

TUESDAY, June 13, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment.

The Committee on Credentials reported in favor of Big Mouth, Spotted Wolf and Yellow Horse, of the Arapahoe tribe, and they were accordingly admitted to seats in the Council.

Black Kettle being present to represent the Cheyenne tribe, by request of the Agent of said Tribe, the Council granted him the privilege of witnessing the deliberations of the Council, and requested the President to allow him per diem and mileage, owing to the long journey and interest which he had taken.

The Committees on Relations with the United States and on Internal Relations, were allowed permission to retire to prepare their reports.

G. W. Johnson offered a resolution to the effect that the General Council adjourn on Wednesday the 14th inst., at 5 P. M., to convene at its next annual session on the first Monday in June, A. D. 1872, at Okmulgee, Creek Nation, Indian Territory. The consideration of the resolution was postponed till the afternoon session.

The Committee on Relations with the United States, submitted the draft of a memorial to the Government of the United States, in reference to the decision of the Supreme Court in the Boudinot Case, which was adopted. See Appendix.

The Council was then addressed by Big Mouth of the Arapahoes, and War-loo-pe of the Caddoes, until time for adjournment, evincing deep interest in the prospective advantages to their people upon the Plains, in confederating with the more civilized nations.

Adjourned to 2 P. M.

2 P. M. TUESDAY, 13th June.

Council met pursuant to adjournment.

J. A. Scales offered a resolution, which was adopted, requesting the President to have five hundred copies of the proceedings of the present session of the General Council printed for the use of the members thereof, and in order thereto, that he appoint a committee of five to revise and condense the same for publication.

The Council then adopted the resolution of Mr. Johnson, offered in the morning session, in relation to final adjournment.

The Committee on International Relations offered the following resolution, which was adopted by the Council :

Be it Resolved by the General Council of the Indian Territory, that in order to facilitate the work of consolidation of the Indian Nations in the Indian Territory, the President of this General Council be, and he is hereby requested to convey through the delegates of the Tribes of the Plains now represented in this Council, an urgent invitation to them to join and participate in our Councils and share in the benefits thereof.

Adjourned to 9 A. M., Wednesday the 14th.

WEDNESDAY, June 14, 1871, }
9 o'clock A. M. }

Council met pursuant to adjournment. Journal of yesterday read and approved.

J. F. Brown offered a resolution, requesting the President to make compensation to the delegates who attended the Council at the Wichita Agency, in April last. Upon motion of W. P. Ross, the resolution was referred to the Committee on International Relations.

The morning session was further occupied in interesting discussions on subjects pertaining to the advancement of the Indians of the Plains in industrial pursuits and education, and ultimately in the enjoyment of the comforts of civilized life.

Adjourned to 2 P. M.

2 P. M., WEDNESDAY, June 14, 1871.

Council met pursuant to adjournment.

The Committee on Revision of the Journal reported attention to the duties of their appointment.

The Committee on International Relations reported as follows:

Be it Resolved by the General Council of the Indian Territory, that the President thereof be and he is hereby authorized and requested to cause a reasonable compensation to be paid to the delegates who attended

the Council held on the 24th of April last, at the Wichita Agency, on the Washita River, in pursuance of a resolution of this Council in December last.

The above resolution was adopted by the Council.

The Council then adjourned to meet at Okmulgee, on the 1st Monday in June, 1872.

Signed, ENOCH HOAG,
 Supt. of Indian Affairs, and
 President of General Council.

G. W. GREYSON,
 Secretary.

APPENDIX.

MEMORIAL OF THE GENERAL COUNCIL TO CONGRESS, IN CASE OF E. C. BOUDINOT, ET AL.

This memorial of the General Council of the Indian Territory, respectfully sheweth to the Honorable the Senate and the House of Representatives of the United States, that in the case of E. C. Boudinot et al., plaintiffs in error, vs. the United States, (No. 253, December term, 1870,) the Supreme Court of the United States has rendered a decision, which involves questions of the gravest importance to all the inhabitants of the Indian Territory, and makes them justly solicitous of the stability and security of their rights. It is judicially announced by that learned and distinguished tribunal of last resort, that "an act of Congress may supersede a prior treaty and that the consequences in all such cases give rise to questions which must be met by the political department of the Government. They are beyond the sphere of judicial cognizance. In the case under consideration, the act of Congress must prevail as if that Treaty were not an element to be considered."

Your memorialists presume not to controvert what has thus been declared to be law, however great may be its departure from their own simple conceptions of justice and of the sanctity and supremacy of treaties concluded under the provisions of the Constitution of the United States. It imperils, we fear, all our rights. It commits us wholly to the political department of the Government, and places us entirely at its mercy. In our ignorance, we have supposed that treaties were contracts entered into, under the most solemn forms

and with the most sacred pledges of human faith; that they constituted a part of the Supreme Law of the land, and that they could be peaceably abrogated only by mutual consent. We are now taught differently. Our treaties are now dependent solely upon the forbearance of the political department of the Government, for we are powerless to enforce their fulfilment. If the decision in question is to become a part of the settled law of the land, we respectfully implore your honorable bodies not to be unmindful of the promises made to us by your Government, and to enact no law that may affect our rights, without the most careful consideration.

We also ask that your laws upon the subject of Revenue, which gave rise to the case under consideration, may be made to conform to the rights guaranteed to the Cherokee Nation, by the 10th Article of their Treaty, concluded August, 1866, with the United States, at least so far as the same may affect the products of their own soil and those of the Indian Territory.

We also respectfully ask that all further proceedings in the case above referred to, may be stayed, and all penalties and forfeitures growing out of it, be remitted, inasmuch as the Supreme Court concludes its opinion, correctly, as your memorialists fully believe, by saying, "we are glad to know that there is no ground for any imputation upon the integrity or good faith of the claimants, who prosecuted this writ of error. In a case not free from doubt and difficulty, they acted under a misapprehension of their legal rights."

And as in duty bound, your memorialists will ever pray, &c.

